

REMARKS

1. Applicant thanks the Examiner for his findings and conclusions.

5 2. It should be appreciated that Applicant has elected to amend Claims 11-15 solely for the purpose of expediting the patent process in a manner consistent with the PTO's Patent Business Goals, 65 Fed. Reg. 54603 (9/8/00). In making such amendments, Applicant has not and does not in any way narrow the scope of protection to which the Applicant considers the  
10 invention herein entitled. Rather, Applicant reserves Applicant's right to pursue such protection at a later point in time and merely seeks to pursue protection for the subject matter presented in this submission.

Hilton Davis / Festo Statement

15 Amendments herein to Claims 11-15 were not made for any reason related to patentability. Claim 11 was amended to clarify the invention. As for Claims 11-15, changes were implemented to conform with standard claim drafting practices. Claims 11 and 13 were further amended to remove typographical errors. None of the foregoing amendments is related to the pending rejections; all amendments were made for reasons other than patentability.

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3. The abstract of the disclosure stands objected to under MPEP § 608.01 (b).

The abstract of the specification is amended to comply with MPEP § 608.01 (b).

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4. Claims 11-15 stand rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. patent application no. US 2002/0147656 (hereinafter "Tam '656").

Respectfully, the Applicant disagrees. Tam '656 only teaches the clearinghouse providing information on orders to the aggregator and does not convey queries of the database. Tam '656 at paragraph [0007] teaches a virtual company that is a network of firms, each performing some aspect of the product creation to sale pipeline. One firm, the clearinghouse, is defined by Tam '656 at paragraph [0008] as a financial institution receiving orders and payments from buyers. Tam '656 at paragraph [0009] teaches an aggregator as another entity maintaining a global database. Tam at paragraph [0020] further distinguishes the aggregator and the clearinghouse by teaching that sellers submit their product information to the aggregator and buyers submit their orders to the clearinghouse.

The Examiner relies on four sections of Tam '656 to show that the claim requirement of recording queries of the aggregate database are available to the seller. These are each addressed separately. First, Tam '656 at paragraph [0024] is relied upon. Here, Tam '656 teaches that "the clearinghouse provides all information in orders from buyers to the aggregator" The Examiner suggests that the clearinghouse records the browsing habits of the buyer. In fact, Tam '656 at paragraph [0024] does not teach that the browsing habits are recorded. In addition, Tam '656 specifically teaches that information on orders, not on buying habits, are sent to the separate aggregator entity. Indeed, Tam '656 teaches away from the invention by extolling the benefits of having the clearinghouse be a separate entity from the aggregator to separate information. Hence, Tam '656 does not teach recording buying habits or transmitting buying habits to the aggregator. Second, Tam '656 at paragraph [0071] is cited. Again, at paragraph [0071] Tam '656 specifically teaches the aggregator profiling the buying habits of the buyer without mention of queries of the database. Third, Tam '656 at paragraph [0076] is also relied upon. Tam '656 at line 7 of paragraph [0076] states that the "aggregator 102 can use buying habits of buyers" without mention of browsing habits. Fourth, Tam '656 at paragraph [0095] is relied upon. In Tam '656, lines 3-4 of paragraph [0095], the clearinghouse is taught as keeping track of products purchased by the buyer. In stark contrast, the

claimed invention requires recording queries of the aggregate database. Thus, the four sections of Tam '656 relied upon do not mention recording buying habits; extols the benefits of separate entities for user protection; and specifically teaches only transferring buying habits to the aggregator. Thus, the teachings of Tam '656 lie in stark contrast to the claimed invention, which requires the subject matter of recording commerce metrics related to queries. Accordingly, the rejection of Claim 11 and all claims dependent therefrom under 35 U.S.C. § 102(e) as being anticipated by Tam '656 is deemed to be improper.

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Applicant amends Claim 11 to further clarify that the commerce metric recording system that records commerce metrics related to queries of the aggregate database is accessible to a vendor. Support for the amendment is found in the application as filed at least at page 4, lines 7-10; page 5, lines 11-13; page 10, lines 22-24; page 11, lines 5-7; and page 11, lines 21-22. As discussed, *supra*, Tam '656 does not provide the aggregate database entity access to browsing habits of the buyer. Accordingly, the rejection of Claim 11 and all claims dependent therefrom under 35 U.S.C. § 102(e) as being anticipated by Tam '656 is deemed to be overcome.

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5. Claims 11-15 are amended to conform with standard claim drafting practices.

6. Claims 11 and 13 are amended to correct typographical errors.

**CONCLUSION**

In view of the above, the Application is deemed to be in allowable condition. The Examiner is therefore earnestly requested to withdraw all outstanding rejections and objections, allowing the Application to pass to issue as a United States Patent. Should the Examiner have any questions regarding the application, he is respectfully urged to contact Applicant's attorney at (650) 474-8400.

Respectfully submitted,

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